



United States
Department of
Agriculture

Farmers
Home
Administration

Washington
D.C.
20250

FmHA AN No. 1552 (1951)

June 8, 1992

SUBJECT: Release of Identifying Information of Borrowers
Receiving Write-Downs

TO: State Directors, District Directors, and County
Supervisors

ATTN: Freedom of Information/Privacy Act Coordinators

PURPOSE/INTENDED OUTCOME: The purpose of this Administrative Notice (AN) is to distribute information regarding the release of the Shared Appreciation Agreement (SAA) or Net Recovery Buyout Recapture Agreement (NRBRA) when it is filed with the publicly available mortgage. This AN also addresses the propriety of filing the loan agreements with the mortgages of borrowers who have received write-downs.

COMPARISON WITH PREVIOUS AN: This AN includes portions of AN 1936 (1951), dated May 30, 1989, which expired on March 31, 1990.

IMPLEMENTATION RESPONSIBILITIES: Based on Privacy Act considerations, the SAA or NRBRA should not be filed by FmHA with the mortgage unless the filing is required by State law.

The personal identifying information of borrowers who received loan write-downs is not releasable to third-party requesters under the Freedom of Information Act (FOIA). The release of this information to a third party would constitute "a clearly unwarranted invasion of personal privacy" under Exemption 6 of the FOIA, 5 U.S.C. 552(b)(6) even when such information is available publicly as a result of the SAA being filed with the mortgage.

The financial information concerning write-downs, without the personal identifying information, is releasable under the FOIA. This information includes: a copy of the notification package sent to delinquent borrowers; a copy of the SAA (FmHA Instruction 1951-S, Exhibit D); and a list of the amounts of the loans, the amounts paid on the loans, and the amounts of loan write-downs in a particular area. Any of the policies and procedures used by FmHA to restructure Farmer Program loans are also releasable.

Therefore, we advise all field offices not to record the SAA or the NRBA with the real estate lien instrument. The only exception

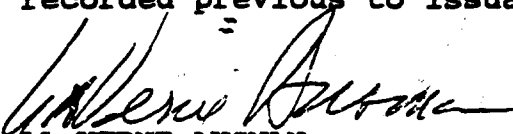
EXPIRATION DATE: April 30, 1993

FILING INSTRUCTIONS:
Preceding FmHA
Instruction 1951-S



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Complaints of discrimination should be sent to:
Secretary of Agriculture, Washington, D.C. 20250

to this is if the Office of the General Counsel has advised you that State law would require the SAA or the NRBRA to be recorded along with the real estate lien in order for FmHA to obtain a proper lien. According to Section 1951.909(h)(4)(viii) of FmHA Instruction 1951-S, the real estate lien instrument will describe the NRBRA and the amount due under it. This provision is not meant to authorize recording of the agreements. You should continue to obtain a real estate lien for every SAA and NRBRA executed. No corrective action will be taken on any agreement recorded previous to issuance of this AN.



LA VERNE AUSMAN
Administrator